

Docket No. UE-200115 - Vol. I

In the Matter of the Application of Puget Sound Energy

March 13, 2020



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the) DOCKET UE-200115
Application of)
))
PUGET SOUND ENERGY)
))
For an Order Authorizing)
the Sale of All of Puget)
Sound Energy's Interests)
in Colstrip Unit 4 and)
Certain of Puget Sound)
Energy's Interests in the)
Colstrip Transmission)
System)

PREHEARING CONFERENCE, VOLUME I

Pages 1-67

ADMINISTRATIVE LAW JUDGE ANDREW J. O'CONNELL

March 13, 2020

9:30 a.m.

Washington Utilities and Transportation Commission
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1 LACEY, WASHINGTON; MARCH 13, 2020

2 9:30 A.M.

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4 P R O C E E D I N G S

5

6 JUDGE O'CONNELL: Let's be on the record.

7 Good morning. The time is approximately 9:30 a.m.

8 My name is Andrew O'Connell. I'm an

9 administrative law judge with the Washington Utilities

10 and Transportation Commission, and I will be presiding

11 in this matter along with the Commissioners.

12 We're here today for a prehearing conference

13 in Docket UE-200115, which is the sale of PSE's interest

14 in Colstrip plant Units 3 and 4.

15 Let's move forward with appearances starting

16 with PSE.

17 MR. STEELE: Good morning. This is David

18 Steele with Perkins Coie on behalf of PSE.

19 MR. KUZMA: I'm Jason Kuzma as well.

20 JUDGE O'CONNELL: Thank you.

21 And Staff?

22 MR. DALLAS: Joe Dallas, Assistant Attorney

23 General.

24 JUDGE O'CONNELL: Public Counsel?

25 MS. GAFKEN: Lisa Gafken, Assistant Attorney

1 General, appearing on behalf of Public Counsel.

2 JUDGE O'CONNELL: Thank you.

3 For the Alliance of Western Energy
4 Consumers?

5 MR. COLEMAN: Brent Coleman of the law firm
6 of Davison Van Cleve on behalf of the Alliance of
7 Western Energy Consumers.

8 JUDGE O'CONNELL: Thank you.

9 And Sierra Club?

10 MS. YARNALL LOARIE: This is Jessica Yarnall
11 Loarie on behalf of Sierra Club.

12 JUDGE O'CONNELL: And Northwest Energy
13 Coalition?

14 MS. BARLOW: Marie Barlow with Sanger Law,
15 appearing for Northwest Energy Coalition.

16 JUDGE O'CONNELL: And, Ms. Barlow, are you
17 also appearing for Renewable Northwest?

18 MS. BARLOW: Yes, Renewable Northwest as
19 well.

20 JUDGE O'CONNELL: Okay. Thank you.
21 Natural Resources Defense Council?

22 MS. WHITE TUDOR: Kate White Tudor,
23 appearing on behalf of the Natural Resources Defense
24 Council.

25 JUDGE O'CONNELL: For Avista?

1 MR. ANDREA: This is Michael Andrea,
2 in-house counsel for Avista.

3 JUDGE O'CONNELL: PacifiCorp?

4 MR. KUMAR: Yes, Your Honor. This is Ajay
5 Kumar, appearing on behalf of PacifiCorp.

6 JUDGE O'CONNELL: And Portland General
7 Electric?

8 MS. MABINTON: Loretta Mabinton with
9 Portland General Electric.

10 JUDGE O'CONNELL: Okay. Thank you.

11 So I have a couple preliminary questions.
12 First for PSE, my question is about Northwestern. Is
13 Northwestern going to have counsel of their own
14 participate in this proceeding or participating at all?

15 MR. KUZMA: I -- I don't believe that
16 they're going to participate in the proceeding, Your
17 Honor. They may be phoning in just to hear. I don't
18 know if anybody's online for Northwestern. They can
19 respond directly.

20 JUDGE O'CONNELL: Okay. My curiosity came
21 from the fact that, you know, they're purchasing, and I
22 just wanted to know if we should expect that PSE will be
23 in contact with them throughout this proceeding.

24 MR. KUZMA: Yes, Your Honor. I am in
25 contact with Northwestern frequently on this. I did let

1 them know we were having the prehearing conference today
2 and provided them with the call-in information. I don't
3 know if anybody's online, though.

4 JUDGE O'CONNELL: Okay. Thank you.

5 Next, there's a case before the Montana
6 Commission and I'm curious as to whether any of the
7 interested parties here have also intervened in that
8 Montana case. So first, I'm just going to go down the
9 list of intervenors.

10 Sierra Club, did you also petition to
11 intervene in the Montana case?

12 MS. YARNALL LOARIE: No, we have not.

13 JUDGE O'CONNELL: Okay. Northwest Energy
14 Coalition?

15 MS. BARLOW: Yes, both Northwest Energy
16 Coalition and Renewable Northwest have intervened there.

17 JUDGE O'CONNELL: And was your intervention
18 granted?

19 MS. BARLOW: Yes.

20 JUDGE O'CONNELL: Okay. Natural Resources
21 Defense Council?

22 MS. WHITE TUDOR: Yes, we have intervened in
23 Montana, and I believe that's been granted too.

24 JUDGE O'CONNELL: Okay. Thank you.

25 And, Avista, have you intervened?

1 MR. ANDREA: No, we have not.

2 JUDGE O'CONNELL: Okay. PacifiCorp?

3 MR. KUMAR: We have not intervened in the
4 Montana case, Your Honor.

5 JUDGE O'CONNELL: Thank you.

6 Portland General Electric?

7 MS. MABINTON: No, we have not.

8 JUDGE O'CONNELL: Okay. And, PSE, I'm
9 curious if you have intervened.

10 MR. KUZMA: No, we have not, Your Honor.

11 JUDGE O'CONNELL: Okay. Next question for
12 Northwest Energy Coalition and Renewable Northwest, I
13 see that obviously, Ms. Barlow, you have the same
14 attorneys for these two entities, to what extent are
15 Northwest Energy Coalition and Renewable Northwest
16 aligned in this matter?

17 MS. BARLOW: I believe they are pretty much
18 fully aligned on their positions. One or the other may
19 take some position in this matter, but they committed to
20 work together to sort of not -- not oppose some of --
21 you know, some of the other positions that they -- that
22 one may take over the other. But they both in this case
23 and in Montana have retained one attorney for both of
24 them, and they are going -- anticipating on submitting
25 sort of the testimony and everything jointly.

1 JUDGE O'CONNELL: Okay. Thank you. That
2 was my next question, so thank you.

3 Okay. And for Natural Resources Defense
4 Council and Sierra Club as well as Northwest Energy
5 Coalition and Renewable Northwest, how much of your
6 interests are aligned all four of you? And I will --
7 I'll start first with Ms. Barlow because I heard from
8 her most recently.

9 Ms. Barlow, can you go ahead?

10 MS. BARLOW: I'm sorry, could you -- could
11 you repeat the other groups?

12 JUDGE O'CONNELL: Sure. Natural Resources
13 Defense Council and Sierra Club, Northwest Energy
14 Coalition and Renewable Northwest. The question is, how
15 much of the interests of these groups are aligned?

16 MS. BARLOW: At this point, I don't know how
17 much alignment there is. We -- we haven't had any
18 conversations with those other groups about what
19 positions they're intending to take in this matter.

20 JUDGE O'CONNELL: Okay. So there hasn't
21 been any coordination at this point?

22 MS. BARLOW: Yeah, I think we've -- we've
23 discussed kind of, you know, maybe sharing some
24 information or, you know, discussing matters, but I
25 don't -- I don't think there's been a ton of discussion.

1 JUDGE O'CONNELL: Okay. Thank you.

2 Ms. Yarnall Loarie?

3 MS. YARNALL LOARIE: That's correct. I
4 think it's early on in this case, so I'm not sure if our
5 positions are aligned just yet or not. You know, I
6 think time will tell. We've had some initial
7 discussions as Ms. Barlow stated, but not -- not much.

8 JUDGE O'CONNELL: Okay. Thank you.

9 And, Ms. Mabinton?

10 MS. MABINTON: PGE?

11 JUDGE O'CONNELL: Oh, I'm sorry. I -- I
12 apologize. I looked at the wrong list. Apologize.

13 Ms. White Tudor?

14 MS. WHITE TUDOR: Yes, similarly we are
15 working on organizing outreach to some of the others in
16 the environmental community, but at this point, we don't
17 have a specific position in this case. We know we need
18 to explore some more of the facts and more of the
19 discovery as it comes out to establish that position.
20 And at this point, we are looking forward to those
21 conversations and finding alignment where it appears.

22 JUDGE O'CONNELL: Okay. Thank you.

23 So at this point, typically at prehearing
24 conferences, we proceed to petitions to intervene. I'm
25 going to rearrange the items that we usually address

1 here in a prehearing conference. I expect to have quite
2 a bit of discussion about the petitions to intervene, so
3 I'm going to cover some other preliminary topics before
4 we get to that.

5 First thing, regarding the procedural
6 schedule, we're going to discuss this more later, but I
7 wanted to provide the parties with information about the
8 availability of the Commission and what we need to see
9 in a prehearing -- sorry, in a procedural schedule. The
10 Commission has availability for October 14th as the
11 hearing date, and we have determined that that allows us
12 enough time to consider this matter and in consideration
13 of our availability this summer and this fall.

14 MR. KUZMA: Your Honor, one question on
15 that. If there was a hearing on October 14th, do you
16 have an idea of when maybe a final order might be
17 issued?

18 JUDGE O'CONNELL: Off the top of my head,
19 no. But I know that we've had discussions about how
20 much time we would need after the hearing date in order
21 to issue a decision, and I expect to take a recess, and
22 I can provide some more clarity on that after.

23 MR. KUZMA: Sure. The -- the reason I -- I
24 ask is that pursuant to the terms of the purchase and
25 sale agreement, the deal needs to be done by the end of

1 this year. And so also there is the issue of, you know,
2 when does the order become final. There's -- there's a
3 30-day period after the hearing -- after the issuance of
4 the order.

5 JUDGE O'CONNELL: Okay.

6 MR. KUZMA: So that's why I'm raising it, is
7 that that's getting us probably perilously close to the
8 end of the year.

9 JUDGE O'CONNELL: Okay. So what I hear you
10 say is that an order would need to be issued prior to
11 November 30th for to -- for the 30 days to pass after
12 that before the end of the year? Is there some lag time
13 that needs to happen after the issuance of the order?

14 MR. KUZMA: Yeah, I would say that it would
15 need to be probably more like November 13th is the very
16 latest we could have an order and still be able to close
17 the deal, because the 30 days plus the period that it
18 would need to take to close the deal with Northwestern.

19 JUDGE O'CONNELL: Okay. Let me --

20 MR. KUZMA: Yeah, I believe that -- you
21 know, we have communicated this with Commission Staff.
22 They had put together a proposed schedule that -- that
23 would have at -- at the very extreme allowed us to do
24 that under those -- those circumstances as the worst
25 case scenario.

1 JUDGE O'CONNELL: I understand. So the
2 Commission's concern is our -- our availability. I
3 will -- when we take our recess, I will confirm dates of
4 our availability and see if there is any wiggle room for
5 that. I'm unaware of any flexibility at this point, but
6 I understand the -- the details that you're bringing up
7 and I'm -- will check and see if we can make any
8 additional availability.

9 So I was going to say that the timing for
10 the rebuttal and cross-answering in this case, if there
11 was a hearing date of October 14th, would be that we
12 wanted rebuttal and cross-answering filed no later than
13 September 2nd. That's approximately five weeks before
14 the hearing. If that hearing date is moved to some
15 other time, we would expect the -- the time between the
16 filing of final testimony, rebuttal and cross-answering,
17 there would be five weeks from that time, at least five
18 weeks from that time, until the hearing date. And like
19 I said, I expect that we will take a recess later on to
20 allow discussion of a procedural schedule. During that
21 recess, I will confirm the flexibility, or lack thereof,
22 of the hearing date.

23 So protective order. The Company requested
24 a protective order with highly confidential provisions,
25 and that protective order has already been issued in

1 this case. I know we have some interested persons
2 before us today that may not be familiar with our filing
3 and service rules. I want to remind everyone that
4 filing and service are done electronically now according
5 to the Commission rule, but in this case, the Commission
6 is going to also require the filing of an original and
7 three paper copies for internal distributions. If the
8 filings include any information designated as
9 confidential or highly confidential, please file the
10 original and three copies of the fully unredacted
11 version. No paper copy is necessary for the partly
12 redacted or fully redacted versions. Those can just be
13 filed electronically.

14 Also, the Commission's rules provide for
15 electronic service of documents. The Commission will
16 serve the parties electronically and the parties will
17 serve each other electronically.

18 If any party has not yet designated a lead
19 representative for service, please do so immediately via
20 an email to me. And also if you would like to add
21 anyone else from your support staff, names and email
22 addresses of those representatives or support staff
23 should be sent to me as well. My email is
24 andrew.j.oconnell@utc.wa.gov.

25 MR. KUMAR: Your Honor, this is Ajay Kumar

1 on behalf of PacifiCorp. I just have a quick question
2 about the paper filing requirement, and I just would
3 like to request that maybe the paper filing requirements
4 be waived for the next 30 days. We may have some -- if
5 a lot of the folks in our office are working from home,
6 it may make it more operationally difficult for us to
7 file paper copies.

8 JUDGE O'CONNELL: And, Mr. -- it's a --
9 that's a reasonable request. Mr. Kumar, what are you
10 expecting to file within the next 30 days?

11 MR. KUMAR: I don't think we are expecting
12 to file much in the next 30 days, I just wanted to raise
13 the issue.

14 JUDGE O'CONNELL: Let me think on that for a
15 little bit. I think that's a very reasonable request
16 given the circumstances, and let me think on it, and I
17 will return to the -- the parties with more information
18 on it. My initial reaction is it's very reasonable.

19 Last thing before we get to the petitions to
20 intervene, during proceedings at the Commission, parties
21 often request that any data requests and responses are
22 shared with every other party with the typical me too
23 data requests. I intend to include this as a
24 requirement in the prehearing conference order. Now, is
25 there any objection from anyone to me including that

1 requirement in the order?

2 MS. GAFKEN: No objection from Public
3 Counsel, and we would support that being in the
4 prehearing conference order.

5 JUDGE O'CONNELL: Thank you.

6 So I'm not hearing any objection. Hearing
7 that there are no objections, I will include that in the
8 prehearing conference order.

9 Okay. Now that brings us to the petitions
10 to intervene. I have received several written petitions
11 for intervention and some written oppositions. Are
12 there any petitions to intervene other than the ones
13 that have been filed in writing with the Commission?
14 Okay. Hearing none, let's proceed.

15 I have petitions to intervene from the
16 Alliance of Western Energy Consumers, Sierra Club,
17 Northwest Energy Coalition, Renewable Northwest, Natural
18 Resources Defense Council, Avista, PacifiCorp, and
19 Portland General Electric.

20 I've received from -- sorry, the Commission
21 has received from PSE written objections to the
22 interventions of Renewable Northwest and Portland
23 General Electric. I have also received a reply to PSE's
24 written objection from Renewable Northwest.

25 So let me ask of PSE, are there any other

1 objections to petitions to intervene in this case?

2 MR. STEELE: No, Your Honor.

3 JUDGE O'CONNELL: Are there any other
4 objections from anyone else as to petitions to
5 intervene? And I'm looking at Staff and then I will
6 hear from Public Counsel.

7 MR. DALLAS: No, Your Honor.

8 JUDGE O'CONNELL: Okay. And Public Counsel?

9 MS. GAFKEN: Staff has no objections to any
10 of the petitions to intervene.

11 JUDGE O'CONNELL: Okay. So I'm going to
12 turn now to the intervenors, and I want to -- I have
13 some questions of certain intervenors that I need to
14 understand better the substantial interests that you're
15 asserting and the value to the public interest that your
16 intervention would provide. And I want to have these --
17 this discussion with these intervenors and also hear
18 from PSE.

19 After that discussion from each of the --
20 from the intervenors, I'm also going to come to Staff
21 and Public Counsel at the end to hear your input at the
22 end of hearing from each of the intervenors and from
23 PSE.

24 So for Avista, PacifiCorp, Portland General
25 Electric, and Renewable Northwest, I -- I want to advise

1 at the outset that I'm currently doubtful of the
2 substantial interests shown in your petition to
3 intervene or the value to the public interest that your
4 intervention might provide, and I'm going to offer you
5 the opportunity to provide more information to explain
6 your substantial interest and the value to the public
7 interest of your intervention.

8 The Commission evaluates petitions to
9 intervene on the standard of whether you have a
10 substantial interest in the proceeding or whether your
11 participation would be in the public interest.

12 So I'd first like to hear from Renewable
13 Northwest. After having read PSE's objection that they
14 filed in writing and your reply, the Commission doesn't
15 advance other commercial interests, and we would be
16 concerned about including you as a party to the extent
17 you're representing commercial interests competitive
18 with PSE. My question for Renewable Northwest,
19 Ms. Barlow, is who are you representing and what is your
20 interest in this matter?

21 MS. BARLOW: So I -- thank you, Judge. I --
22 I won't reiterate everything from our written reply, but
23 I think Renewable Northwest has primarily been engaged
24 in the Northwest to -- to -- for the expansion of
25 renewables. They envision a Northwest powered by clean,

1 affordable, reliable, and renewable energy, and they've
2 primarily not been advocating for private commercial
3 interest, but for the advancement of renewables, whether
4 those are owned by a utility or an independent third
5 party, they've -- they've generally kept that position
6 consistent.

7 And they've had a long history
8 of -- of working on these issues in the Northwest,
9 including on the recent CETA legislation passed in
10 Washington, and these -- these climate and environmental
11 goals that are essential to their mission as well as the
12 direction that the state is moving right now. And so
13 they -- they intervened to help the Commission
14 understand whether this -- the proposed transaction is a
15 necessary step towards meeting those renewable goals.

16 In addition, and we -- we noted that in our
17 reply to PSE, the -- the nonprofit -- they -- they are
18 a -- they are made up of a majority -- the board must be
19 a majority of nonprofit conservation, environmental, or
20 other public interest groups, not commercial interests.
21 So they -- they are a 501(c)(3) public interest
22 nonprofit organization, not -- not a trade association
23 or organized under a different -- PACT rules. So
24 they -- they have a substantial interest in this to --
25 to advance their mission of renewables in the Northwest.

1 In addition, it would be in the public
2 interest because they have unique experience working on
3 the Colstrip transmission system and -- and Montana
4 Renewable Development Action Plan that has been going on
5 at Bonneville, but they can help assist the Commission
6 to understand whether the -- the proposed transmission
7 sale also is -- is a necessary step. And, you know,
8 Puget has said that that won't have any effect on
9 transmission availability in the region, but that --
10 it -- we can't just accept that. It's why Renewable
11 Northwest wants to be able to intervene so that they can
12 investigate those issues and provide input on that
13 point.

14 JUDGE O'CONNELL: Okay. So I -- I have a
15 couple of follow-up questions. First of all, I'm -- I'm
16 not sure that this is the right forum for promoting the
17 interests of the entities represented by Renewable
18 Northwest; however, your point about the experience and
19 expertise of the group is noted. I am curious,
20 Renewable Northwest is a nonprofit and -- and an
21 advocacy group, but how should we interpret Renewable
22 Northwest also representing entities that are in a
23 competitive renewable energy industry?

24 MS. BARLOW: Well, and I think that goes to
25 the -- the case that we cited in our reply comments,

1 which had to do with the Northwest & Intermountain Power
2 Producers Coalition, which is a trade association that
3 represents solely those who are commercial interests.
4 And there, the -- the Commission allowed that
5 intervention despite the fact that they would
6 possibly -- you know, that their actions may possibly
7 stand to benefit that, but that that goes to the weight
8 of the evidence and not to whether or not the -- the
9 organization has value to add to the process.

10 JUDGE O'CONNELL: Okay. Are there -- are
11 there any limits on the issues Renewable Northwest
12 intends to address or is there an extent to which you
13 intend to participate?

14 MS. BARLOW: I think Renewable Northwest
15 does not intend to expand the scope of what has been
16 already presented. I know -- you know, I have not -- I
17 don't know the -- the extent of everything that will be
18 looked into. We haven't even fully reviewed the
19 application. And so I don't know that I can say what we
20 will do, but I can say that we won't expand the scope of
21 what has already been presented.

22 JUDGE O'CONNELL: Okay. Thank you.

23 For -- for Staff and Public Counsel, please
24 continue to take notes. I'm going to return to you at
25 the end of this discussion to hear from you from -- for

1 each of the petitions to intervene.

2 But right now, as it applies to Renewable
3 Northwest, PSE, I'd like to hear from you in your
4 response to Renewable Northwest.

5 MR. STEELE: Thank you, Your Honor. So this
6 is -- the substantial interest test, it's -- it's really
7 a statutory test. It asks the question as to whether or
8 not the intervenor has a statutory right to be a part of
9 the case. And it's almost a standing question, what is
10 their statutory or legal basis for being in the case?
11 Having an organizational interest, having organizational
12 interests by its members, those are not -- those do not
13 meet the requirements of a substantial interest in this
14 case.

15 The Commission's purpose and the purpose of
16 this proceeding here is to determine whether or not the
17 proposed transactions are consistent with the public
18 interest for -- for residents in Washington, for -- for
19 PSE's customers in Washington. Having organizational
20 interests about environmental issues or carbonization
21 issues or those types of things are -- are noteworthy,
22 but there are many nonprofit organizations in the region
23 that -- that -- that have those types of interests.
24 Those don't grant a party a statutory substantial basis
25 for being a part of this proceeding. And so I -- so

1 we -- we don't believe that they've met the test for
2 showing a substantial interest in this proceeding.

3 As far as the public interest goes --

4 JUDGE O'CONNELL: Well, can I stop you right
5 there --

6 MR. STEELE: Yeah.

7 JUDGE O'CONNELL: -- to follow up on what
8 you're saying. There are a lot of PSE customers in
9 Western Washington and in Washington's realm that are
10 affected by recent statutory and legislative changes
11 that encourages the development of more renewables. How
12 are they not being represented by -- I mean, isn't
13 Renewable Northwest representing the interests of at
14 least some of these customers that are interested in
15 pursuing renewable energy?

16 MR. STEELE: Yeah, I -- I think their
17 petition in reply, it's still hard to know who its --
18 who its members are and -- and what their interests.
19 Their -- their reply talks about a range of interests,
20 whether they're economic, commercial. They do talk
21 about Washington ratepayers, but -- but ratepayers are
22 represented by Public Counsel and Staff. And so they
23 mention Washington nonprofits, but they don't explain
24 like what exactly are those nonprofits doing. What is
25 their interest here? They're not specific about that.

1 And so there's -- there's a lot of
2 nonprofits in the state or in the region that might have
3 interests in this that -- that are not participating in
4 this case. Having an interest does not give you a
5 substantial interest by law, and -- and I think that's
6 an important distinction, and -- and I'm not sure
7 Renewable Northwest has shown that here. They've shown
8 that their members have an interest, but -- but to the
9 extent they have Washington nonprofits whose members are
10 PSE customers, you know, that's pretty far down the
11 chain when -- when you've got Public Counsel in the case
12 and you've got Staff who are here to represent the
13 interests of PSE ratepayers.

14 JUDGE O'CONNELL: Okay. Thank you. I -- I
15 interrupted you. Please, you wanted to say something
16 else about public interests.

17 MR. STEELE: Well, I -- I think it's
18 important to -- to talk about that because I think -- I
19 think in -- in reviewing the reply, I think there is
20 concern about scope here and about what their intentions
21 are. And -- and they do talk about commercial interests
22 and expanding the marketplace, and they list a host of
23 different nonprofits with -- with a varying -- you know,
24 a broad range of interests. And so I think there is
25 concern about how -- what -- what types of issues do

1 they want to explore in this case. I think there's
2 concerns about duplication with some of the other
3 parties in this case. They've already talked about
4 sharing resources, sharing briefing, I mean, is -- are
5 they really needed? Are they necessary to advance the
6 purposes of this proceeding?

7 And so I think -- I think there is real
8 legitimate questions about whether they're needed or
9 whether we're -- we're -- we're going to have
10 duplicative testimony or briefing that -- that could
11 frankly burden the proceeding.

12 We'll -- we'll also note that -- that --
13 that if -- if intervention is granted, if the -- if the
14 Commission does find there is some kind of interest in
15 their -- in their being a part of the case, I think that
16 there should be relatively tight parameters to their
17 role in this case. Certainly any kind of commercial
18 marketing interest should not be a part of this case to
19 the extent they're trying to promote that. I think to
20 the extent they're trying to promote discussions on
21 issues that are beyond the Commission's jurisdiction,
22 like for transmission questions, those are -- those
23 should not be a part of this case as well.

24 And so I think if intervention is granted, I
25 think it should be relatively narrow, and they should be

1 careful to avoid duplication and burdening this
2 proceeding with -- with issues that frankly should not
3 be a part of this case.

4 JUDGE O'CONNELL: Thank you.

5 Ms. Barlow, let me hear from you one more
6 time.

7 MS. BARLOW: Sure. On -- on the substantial
8 interest piece, I think the -- the recently passed
9 legislation in Washington making it a goal to get a
10 hundred percent clean energy makes it an interest in --
11 in the -- in the public interest for -- for there to be,
12 you know, considerations of whether this proposed
13 transaction is actually necessary to -- to meet those
14 goals. You know, Renewable Northwest hasn't developed a
15 position on whether it is or isn't at this point, but
16 the -- the claim that PSE has made that it is, I think
17 Renewable Northwest can -- you know, they have -- they
18 have a role to play in the Northwest to advocate for --
19 for the interests of the people in -- in Washington
20 who -- who want to meet these renewable energy goals.

21 JUDGE O'CONNELL: So --

22 MS. BARLOW: And --

23 JUDGE O'CONNELL: Ms. Barlow, I'm going to
24 let you continue in a moment. I -- I understand the
25 point that you're making. I think that the question I

1 have is, why is Renewable Northwest's intervention
2 necessary in order to have those interests represented
3 for renewable energy and compliance with statutory
4 legislative direction? We do have Public Counsel and
5 Staff already in this case, so what I want to hear is
6 more about what Renewable Northwest as a party would be
7 bringing to the case to help the decision.

8 MS. BARLOW: Right, and I think that's where
9 I was going next with my comment. The -- Renewable
10 Northwest has had, you know, a long -- a long history in
11 the -- in the Northwest working on these issues, and
12 especially with the transmission piece, and they have a
13 lot of expertise and have worked a lot on those points.
14 And I think, you know, while Renewable Northwest and
15 Northwest Energy Coalition have kind of agreed to work
16 together in this case, Renewable Northwest really brings
17 that -- that expertise.

18 And we're -- we're not going to try to ask
19 the Commission to do -- to do something that's beyond
20 its jurisdiction, but we do think that they have lot of
21 expertise to offer in -- on the transmission piece just
22 to determine whether that's, you know, the appropriate
23 route to go in -- in this case.

24 JUDGE O'CONNELL: Okay. Thank you.

25 Next I'd like to turn to Portland General

1 Electric. Ms. Mabinton, I want to understand better
2 what PGE's interest in PSE's sale in this -- these
3 transactions that are the subject of this proceeding,
4 what is Portland General Electric's interest in this
5 case?

6 MS. MABINTON: Your Honor, our position
7 should -- Portland General is a coowner in the Colstrip
8 Unit 4 plant. We're owners with owner interest in
9 undivided ownership, so we are joined at the hip of the
10 space. But in this application, PSE essentially said
11 that they're asking the Commission's approval to try to
12 sell the transferred asset. The transferred assets
13 include the Colstrip plants and the material contract.

14 PSE has put the material contract before the
15 Commission. PGE is a counterparty to the material
16 contract, and as a party to the contract that PSE has
17 put in front of the Commission, we have a substantial
18 interest in the subject matter of this proceeding.

19 JUDGE O'CONNELL: What jurisdiction does the
20 Commission have over PGE?

21 MS. MABINTON: Your -- Your Honor, the
22 Commission has jurisdiction over us because we will
23 remain in your proceeding.

24 JUDGE O'CONNELL: Okay. How will your
25 participation as a party benefit the disposition of this

1 proceeding?

2 MS. MABINTON: Our participation in this
3 proceeding is because of our interest in the subject
4 matter of the proceeding, and with owner interest in
5 Colstrip 4 since the plant was constructed, and we have
6 been PSE's partners in that plant for -- for that plant
7 as well. And we have not had the benefit of seeing
8 everything that PSE is proposing in connection with this
9 transaction, and that will inform the -- the role that
10 we play. And as I said in our position, we have no
11 interest in broadening the issues. We are a
12 representative to PSE as well. We -- we sell assets and
13 we understand that we're the bookends for a sale of
14 utility assets, and we intend to respect that.

15 JUDGE O'CONNELL: Okay. I need to ask you a
16 couple more follow-up questions because PSE isn't asking
17 to include Portland General Electric's share of Unit 4
18 in this transaction. This only concerns PSE's share on
19 Units 3 and 4. I'm -- I'm -- I'm still failing to
20 understand fully how PSE's proposed transactions impact
21 PGE and its customers and -- and whether the Washington
22 Utilities and Transportation Commission should be
23 looking out for the interests of Portland General
24 Electric and its customers. It seems like something
25 that the Oregon Commission should be doing.

1 MS. MABINTON: Your Honor, we agree that
2 the -- the Oregon Commission will be looking out for
3 PGE's customers and PGE. So we -- we have interest in
4 this proceeding as a -- a counterparty to PSE and a
5 contract that PSE has listed as one of the assets that
6 they are selling and is seeking their approval to sell.
7 PSE's -- PSE's is not setting -- PGE has no interest in
8 PSE's 35 percent interest in the plant, but our interest
9 in the plant is undivided. And more importantly, the
10 material contract that PSE has put in front of the
11 Commission for approval, are contracts that we are all
12 signatories to.

13 JUDGE O'CONNELL: So are you saying that PSE
14 needs the approval of the other co-owners so sell its
15 interest?

16 MS. MABINTON: Well, we -- we -- we
17 haven't -- we don't fully understand what PSE is
18 proposing to do in connection with this transaction, and
19 that is why our participation in this proceeding is --
20 is necessary so that we -- the agreement that the
21 Commission is asked to approve the assignment on, the
22 Commission wants to be sure that it actually is not
23 going to do anything to the utilities. If it approves
24 the assignment, that it will actually be effective.

25 JUDGE O'CONNELL: Okay. Thank you.

1 Let me turn to PSE now. Mr. Steele, go
2 ahead.

3 MR. STEELE: Thank you, Your Honor. Your
4 Honor, from -- from PSE's perspective, this is a
5 relatively simple intervention. Portland General is an
6 out-of-state entity not regulated by the Commission with
7 customers from a different state. They do not have a
8 substantial interest in this proceeding. To the extent
9 they have concerns about the contract at issue as part
10 of the sale, those are -- are private contracts, and if
11 they -- if Portland General believes they've been
12 aggrieved somehow, there's -- there's different forums
13 for contractual disputes. But those contracts, the
14 Commission does not have jurisdiction over those
15 contracts.

16 And so to the extent Portland General has
17 concerns or feels like they're being aggrieved, there
18 might be a different forum for that. But -- but that
19 does not provide them a substantial interest in this
20 case. They're not -- they're, again, an out-of-state
21 utility with out-of-state customers, and that -- that
22 does not fall under the jurisdiction of this Commission.

23 JUDGE O'CONNELL: Well, they -- PGE, they
24 are co-owners of Colstrip, at least Unit 4 with you. Is
25 there anything that -- I mean, why -- let me see if I

1 can explain the question. Hearing what PGE is saying,
2 their interest is that they are a co-owner and it's an
3 undivided interest in the plant and that they should be
4 able to see the transaction and weigh in on it. What --
5 what is your response to that?

6 MR. STEELE: Can I have a moment, Your
7 Honor?

8 JUDGE O'CONNELL: Yes.

9 And while we have a break, I know that there
10 is a prehearing conference that's currently scheduled
11 for 10:30 a.m. Right now, it is 10:15 a.m. The
12 parties -- or the -- the interested parties in that next
13 prehearing conference, a lot of them are shared with
14 this proceeding, and I -- I just wanted to make those
15 parties that are at least here now aware that this
16 prehearing conference will delay the start of that
17 prehearing conference most likely.

18 MR. STEELE: Apologies, Your Honor. Just
19 trying get the mic back on.

20 JUDGE O'CONNELL: Sure. All right,
21 Mr. Steele, go ahead.

22 MR. STEELE: I'll reiterate. Those are
23 still all private contractual matters as far as between
24 the parties themselves. Those -- those -- their --
25 their contractual interests and their concerns over the

1 ownership shares, those are private contractual matters
2 that the parties worked out between themselves, and that
3 includes selling -- selling each other's interests, how
4 those interests would be resolved, issues like right of
5 first refusal, those are all private contractual issues
6 that are not before the Commission in this case.

7 To the extent Portland General would like
8 information about the proceeding or about PSE's sale, I
9 mean, that information is -- is largely available
10 publicly as part of the filing. And so, again, this is
11 not the forum for Portland General to be trying to
12 protect the interest of itself or its customers who are
13 out of state.

14 And from a public interest standpoint,
15 they've provided no information as to how their
16 participation will benefit the public interest, how it
17 will benefit PSE customers, or even the state of
18 Washington. There's -- they said nothing in their
19 petition about -- about how that will -- their
20 participation will advance public interest in any way.

21 JUDGE O'CONNELL: Okay. Thank you.

22 Ms. Mabinton, I'd like to return to you to
23 offer you the opportunity to respond to PSE.

24 MS. MABINTON: Thank you, Your Honor. I
25 will start with the last comment about public interest.

1 The way we understand Washington law, a political
2 position is an alternative test the sooner we have
3 official interest our participation will be in the
4 public interest. And what we have shown here is that we
5 have a substantial interest in -- in the subject matter
6 of this proceeding.

7 Washington public policy also favors the
8 inclusion of individual owner positions in
9 administrative [inaudible] affected their interest. PSE
10 has listed a contract to which we have a party at some
11 of -- actually multiple contracts to which we are a
12 party as the asset that they are selling. And for PSE
13 to then say that a counterparty to a contract does not
14 have a substantial interest in that contract is baffling
15 to us.

16 JUDGE O'CONNELL: Okay. Ms. Mabinton,
17 that's not exactly what I'm hearing from PSE. What I'm
18 hearing from them is that that's a contractual matter
19 that the -- PGE is involved with PSE in, but they are
20 going to -- but that doesn't -- there is another forum
21 where any dispute between parties who are signatories to
22 that contract would have a different forum other than
23 this one.

24 MS MABINTON: And we -- and we agree that --
25 that -- that the Commission -- the Commission is not

1 adhered to adjudicate a dispute between the co-owners
2 and we're not raising -- we -- we don't have any dispute
3 with PSE on that contract. And if we did, the contract
4 provides a mechanism to do that. Our interest in this
5 proceeding is that PSE has defined as the transferred
6 assets the material contract to which we are the co --
7 we are the co-parties to the contract.

8 JUDGE O'CONNELL: Okay.

9 MR. STEELE: Your Honor, if I may?

10 JUDGE O'CONNELL: Briefly, Mr. Steele.

11 MR. STEELE: Any Commission decision in this
12 case is not going to affect PGE's interest in the
13 agreements that they're concerned about. Those are
14 private contracts that -- that this proceeding won't be
15 impacting. Their -- their interest in Colstrip Unit 4
16 with the transmission system are not going to be
17 impacted by this proceeding. And to the extent they
18 feel that they are, those are contractual issues where
19 there's a different forum for.

20 JUDGE O'CONNELL: Okay. Ms. Mabinton?

21 MR. KUMAR: Your Honor?

22 JUDGE O'CONNELL: I'm sorry, please identify
23 yourself.

24 MR. KUMAR: Yeah, this is Ajay Kumar on
25 behalf of PacifiCorp. At some point, PacifiCorp would

1 like -- would also like to be heard on the issue of
2 PGE's intervention. We have some thoughts that may be
3 helpful to the Commission.

4 JUDGE O'CONNELL: Okay. One moment.

5 PGE, Ms. Mabinton, do you have any final
6 reply to PSE and Mr. Steele?

7 MS. MABINTON: Well, Mr. Steele's contention
8 is that if the proceeded, [inaudible] proceeded impact
9 PGE's interest, then PGE can go -- state a contractual
10 position to that. So talking about the perspective
11 issues that may arise, and we have said that we are not
12 seeking to resolve any contractual disputes in this
13 forum. We are only seeking a position in this
14 proceeding because we have a substantial interest in it.

15 We -- we are also seeking a position that we
16 do not intend to expand the scope of this proceeding,
17 and we believe that, because of our interests in the
18 Colstrip contract and Colstrip, that the Commission
19 should grant PGE's petition to intervene in this
20 proceeding.

21 JUDGE O'CONNELL: Okay. Thank you.

22 I want to turn to PacifiCorp now. I have
23 some questions, and I'm also going to afford you the
24 opportunity to speak on PGE's intervention as well
25 briefly. So, PacifiCorp, your petition to intervene

1 says basically you're a co-owner of Colstrip and that
2 gives you a substantial interest, and that is pretty
3 much the extent of your petition to intervene. Why is
4 the fact that you're -- you happen to be a co-owner of
5 Colstrip give you a substantial interest in this case?

6 MR. KUMAR: Well, Your Honor, maybe I can
7 elaborate on sort of what was included in our petition
8 to intervene. I think PacifiCorp has a substantial
9 interest in this case because specifically this -- this
10 transaction has the -- the potential to significantly
11 affect the costs that are borne by PacifiCorp and
12 PacifiCorp's customers, which includes customers in
13 Washington.

14 As a result, I think that PacifiCorp has a
15 substantial interest in this case and a substantial
16 interest in the outcome of these proceedings at the
17 Commission, as do our Washington customers. So I think
18 when the Commission under four eight -- Administrative
19 Code 480-143-170 has to determine whether or not this
20 transaction is in the public interest, it should have
21 the unique perspective that is offered by PacifiCorp as
22 a co-owner and as a utility that has to prudently manage
23 Colstrip and advocate on behalf of its customers.

24 JUDGE O'CONNELL: So you're saying that by
25 fact of PacifiCorp having Washington ratepayers, that

1 the transaction may affect the cost borne by PacifiCorp
2 and its customers, that means that your intervention
3 is -- you know, you have a substantial interest and it
4 would be in the public interest to include you; did I
5 understand you correctly?

6 MR. KUMAR: Yes, and I think it goes maybe
7 slightly beyond that, Your Honor. I think by allowing
8 PacifiCorp and the other co-owners, including PGE, to
9 participate in this proceeding, they probably bring a
10 unique perspective and sort of additional information
11 and additional issues on how this proposed transaction
12 could affect the operation of Colstrip, which is well
13 within the Commission's jurisdiction.

14 And so we do -- would like -- we would like
15 to be able to present that perspective to the Washington
16 Commission and allow you to consider as you determine
17 whether this transaction is in the public interest.

18 JUDGE O'CONNELL: Well, I -- I would agree
19 with you that the operations of Colstrip are within the
20 jurisdiction of the Commission by the fact that a number
21 of Washington regulated utilities are co-owners of
22 Colstrip. I'm -- I'm -- I'm not sure that I'm convinced
23 that that is the topic of this proceeding, the
24 operations of Colstrip. I think that the subject of
25 this proceeding are the -- the transactions between PSE

1 and Northwestern to -- to settle PSE's interest. I'm
2 not sure that this has anything to do with the
3 operations of Colstrip.

4 MR. KUMAR: Well, Your Honor, if -- if I --

5 JUDGE O'CONNELL: Go head.

6 MR. KUMAR: Apologize, Your Honor. If I
7 may, I -- I might be able to provide maybe a little bit
8 more detail. I think that, you know, to the extent that
9 I think there are certain co-owners that may have some
10 very specific interests and very specific questions
11 regarding how this transaction will affect ongoing
12 capital additions at -- at Colstrip and how this
13 transaction will affect sort of the -- the voting rights
14 around those ongoing capital additions.

15 I think those specific issues, while they
16 are in the sort of realm of the operation of Colstrip,
17 they're also deeply related to this transaction and how
18 this transaction is affected by sort of the voting
19 rights and vote sharing agreement that is part of this
20 transaction.

21 As a result, I do think that the co- -- some
22 of the co-owners of Colstrip have unique perspectives to
23 bring to bear improve Washington Commission upon this
24 issue. And to the extent that this transaction could
25 raise costs on Washington customers for all the

1 utilities, I think that is an issue that's squarely in
2 front of the Commission on this transaction.

3 JUDGE O'CONNELL: Okay. Thank you. I
4 understand. Did you -- I -- I heard you mention PGE and
5 its intervention, did -- is that all that you intended
6 to say and comment upon PGE's intervention?

7 MR. KUMAR: Your Honor, I think that for
8 many of the reasons that I articulated before, PGE is
9 also a co-owner in Colstrip, and PacifiCorp supports
10 their intervention because they do bring, again, that
11 perspective on how -- on how this transaction could
12 affect those issues at Colstrip. And so I think that is
13 an important perspective for the Commission to hear.

14 JUDGE O'CONNELL: Okay. Thank you.

15 I will turn to PSE. Mr. Steele, there was
16 no objection to allowing PacifiCorp in as a party, but
17 there was an objection to PGE. I'm curious, what makes
18 PacifiCorp different from PSE's perspective?

19 MR. STEELE: Thank you, Your Honor. Yeah,
20 from -- from PSE's perspective, we -- we agree that --
21 that they are a regulated utility here in the state,
22 they have Washington customers, and that we appreciate
23 that they could have an interest and -- and precedent
24 set in this case that could affect them. And so for
25 those reasons, PSE determined that -- that it could

1 understand why they'd want to be a part of the case.

2 JUDGE O'CONNELL: Okay. But PacifiCorp
3 doesn't represent any of your ratepayers, and a lot of
4 the argument that I read in your opposition to Renewable
5 Northwest and PGE being in the case was -- revolved
6 around them not representing customers of PSE so...

7 MR. STEELE: Right. We -- I -- P -- PSE
8 agrees with those points and is concerned about those
9 issues, but from PSE's perspective in this proceeding
10 determine that -- that as a Washington utility with
11 Washington customers, that that would be much more
12 directly impacted potentially by Commission decision.
13 Felt like for those reasons, it decided not to oppose
14 their intervention.

15 But the Company is concerned with those
16 issues and -- and -- and certainly agree that to the
17 extent there are contractual questions, you know,
18 about -- about the ownership and operation agreement,
19 that that -- again, those are contractual issues that
20 should also not be a part of the case.

21 JUDGE O'CONNELL: Okay. And I'm jumping
22 ahead a little bit. I'm -- we're going to address
23 Avista in a moment. I'm going to give Mr. Andrea a
24 chance to speak, but are -- is PSE -- your thoughts on
25 the intervention of Avista, is this going to be the same

1 as your comments for PacifiCorp?

2 MR. STEELE: Yes, Your Honor.

3 JUDGE O'CONNELL: Okay. Mr. Kumar,
4 PacifiCorp, is there anything you'd like to add or in
5 response or in addition to what Mr. Steele has said?

6 MR. KUMAR: Nothing -- excuse me. No, Your
7 Honor. I think I've addressed my point.

8 JUDGE O'CONNELL: Okay. Thank you.

9 Then I'd like to turn to Avista.

10 Mr. Andrea, your petition to intervene has a lot of the
11 same wording or similar wording as PacifiCorp's, that
12 you're co-owner of Colstrip and that gives you a
13 substantial interest. And why by the fact of you just
14 being a co-owner does that give you a substantial
15 interest in this case?

16 MR. ANDREA: Yes, Your Honor. This is
17 Michael Andrea for Avista. I -- I appreciate Puget's
18 candor about our interest. I would agree with that and
19 I would also agree with the comments made by Mr. Kumar
20 from PacifiCorp. And just to build on that a little
21 bit, obviously we are a co-owner of both the generation
22 and the transmission that is at issue in this
23 transaction. We're parties to both the ownership and
24 operation agreement before Colstrip Units 3 and 4 as
25 well as the transmission.

1 I recognize that there is a lot of
2 contractual issues involved, but there's also a
3 significant amount of ambiguity in our view, in Avista's
4 view, in the documents that have so far been filed by
5 Puget about how the -- the plant is going to be operated
6 and the control over the operation of the plant going
7 forward. We think that those issues will have a
8 substantial impact on Avista's customers, and we have a
9 substantial interest in the outcome of those issues as
10 they've clarified through this process.

11 Clearly Avista has Washington customers and
12 has a substantial interest in ensuring that the
13 transaction does not negatively impact our ratepayers,
14 and for purposes of this proceeding, our ratepayers in
15 Washington in particular.

16 It's worth noting, you know, to that point
17 that Northwestern Energy and its public disclosures thus
18 far has indicated that this transaction could
19 substantially increase its influence over the operations
20 of the project going forward. Again, that's a
21 significant concern. So we need to be involved so that
22 we can make sure that the record is fully developed,
23 bring the unique perspective of a co-owner and another
24 Washington utility, as Mr. Kumar noted, to the
25 proceeding.

1 So obviously, it's our position and we
2 appreciate Puget's comments in this regard. We have a
3 substantial interest and it is in the public interest
4 for Avista to be granted intervenor status and be a
5 party to this proceeding.

6 JUDGE O'CONNELL: Okay. Thank you.

7 I've already heard from PSE. Briefly, is
8 there anything you'd like to add as far as Avista's
9 intervention? Because, again, this is one of the
10 petitions to intervene that you did not oppose, and I
11 know we already addressed the -- your comments would be
12 the same as with PacifiCorp, but I want to give you an
13 opportunity if there's anything else.

14 MR. STEELE: Thank you, Your Honor. You
15 know, the -- the only thing I'd add is -- is PSE does
16 object and -- and -- and -- and does not agree with any
17 interventions that would get into sort of the
18 operational agreements of Colstrip and, you know,
19 operational questions of Colstrip. We believe those are
20 beyond the scope of this proceeding.

21 And so I -- I think that would concern us if
22 that's the intention of Avista and PacifiCorp if it's
23 getting into those types of operational-type issues. We
24 think those are beyond the scope of this -- of this
25 proceeding.

1 JUDGE O'CONNELL: Do you mean the operations
2 at the plant or the -- the ownership control and what
3 would be decision-making of the plant?

4 MR. STEELE: Frankly I think it -- I think
5 it's both, because both are still contractual issues
6 between the parties. How those responsibilities and
7 relationships are worked out we -- we would submit are
8 still contractual issues between the parties that are
9 subject to contract. And -- and so, again, I -- we are
10 concerned and we've -- and we -- and we've -- and we
11 certainly remain concerned about to the extent the
12 private contracts between the parties are trying to
13 become an issue in this case as we believe that it's --
14 that it's not the purpose of this case and that it's not
15 in the jurisdiction of the Commission to address those
16 types of concerns.

17 JUDGE O'CONNELL: Well, you -- you brought
18 up a couple of times here at this hearing that the --
19 the -- the interest, the public interest is that of
20 PSE's customers, but also of, you know, Washington in
21 this greater sense that the public interest for
22 Washington ratepayers, which is, you know, why it
23 includes Avista and PacifiCorp. Don't those -- the --
24 the change that could happen in the ownership share in
25 the control of Colstrip and decision-making, doesn't

1 that involve the public interest of Washington
2 ratepayers in this larger sense?

3 MR. STEELE: Well, I think the -- I think
4 the concern is, is if the parties are trying to dispute
5 the terms of -- of those agreements in this proceeding,
6 I think that's not -- that's not the purpose of this
7 case. It's -- it's, again, is -- is -- is the sale
8 consistent with the public interest. But if -- if -- if
9 the parties are trying to dispute the terms of private
10 contracts and feel like they've been aggrieved somehow
11 as a result of those contracts, we -- we believe that's
12 beyond the scope of this case.

13 JUDGE O'CONNELL: Okay. So I -- I feel like
14 I need to --

15 MR. KUMAR: Your -- Your Honor?

16 JUDGE O'CONNELL: Hold on one moment.

17 I feel like I need to turn back to
18 PacifiCorp and Avista for a moment considering the --
19 the issues that were just raised by PSE. Right now
20 we're on Avista. I'm going to turn to Avista first and
21 then I want to hear from PacifiCorp again.

22 Mr. Andrea, why don't you go ahead.

23 MR. ANDREA: Yeah, thank you, Your Honor.
24 So in response to your question about what operation
25 impacts we think are at issue, it really is about over

1 decision-making, not the actual operations of the unit.
2 And we are not looking to dispute or make at issue that
3 we've been aggrieved by our current agreements. We are
4 concerned about how this transaction may modify our
5 influence and control over the decision-making going
6 forward at Units 3 and 4.

7 So for example, the purchase and sale
8 agreement make some obligations with regard to how Puget
9 will make decisions between now and the time that the
10 units -- or the transaction closes, and then going
11 forward, there was vote sharing agreement that dictates
12 how votes will go forward as between and amongst Puget
13 and Northwestern. And we have a very clear interest in
14 understanding how all of those mechanisms are going to
15 work going forward and the impact that that may have on
16 our customers in Washington.

17 JUDGE O'CONNELL: Okay. Thank you.

18 Mr. Kumar for PacifiCorp, I -- I thought I
19 heard you wanting to speak; am I correct?

20 MR. KUMAR: Yes, Your Honor, and I
21 appreciate the opportunity to be heard on this issue. I
22 think I can be very specific about our interests. You
23 know, I would echo the comments of Mr. Andrea. We're
24 not here as a contractual party that has aggrieved, we
25 are here to raise very specific issues about how this

1 transaction affects the public interest of Washington.
2 And I can be very specific about that. You know, as
3 part of this transaction, there includes a vote sharing
4 agreement. I believe Mr. Roberts of Puget Sound Energy
5 has even provided testimony on how this vote sharing
6 agreement will work.

7 We have very serious concerns about, you
8 know, the decision-making that results from that vote
9 sharing agreement that could affect the public interest
10 of Washington, and those are the specific concerns that
11 we would like the opportunity to raise in front of the
12 Commission.

13 JUDGE O'CONNELL: Okay. I understand.

14 Okay. Next I'd like to turn to Staff and
15 Public Counsel. We've heard from intervenors and PSE as
16 to four petitions to intervene for Renewable Northwest,
17 for Portland -- sorry, for PGE, for Avista, and for
18 PacifiCorp. I want to hear from Staff first. If we
19 could hear what Staff's thoughts are on the petitions to
20 intervene. Go ahead.

21 MR. DALLAS: Thank you, Your Honor. Staff
22 doesn't oppose any petition to intervene. In general,
23 Staff believes that the Commission would benefit from
24 the testimony of each one of these intervenors, and I'll
25 start with Renewable Northwest.

1 It is Staff's understanding that Renewable
2 Northwest's primary interest in this docket relates to
3 the sale of the portion of Colstrip transmission and its
4 impact on renewable development in Eastern Montana.
5 Staff shares this concern and believes that it's in the
6 public interest to have Renewable Northwest's
7 perspective and expertise, and this expertise could help
8 the Commission in rendering its order.

9 Switching to PG&E, Staff believes that PG&E
10 has an interest because the sale would give Northwestern
11 a majority share in Colstrip Unit 4. In particular,
12 PSE's sale would give Northwestern a 55 percent interest
13 in Unit 4. Staff is also aware of vote share agreements
14 that are part of this sale. Therefore, PG&E would be
15 similarly situated with Avista and Pacific Power whose
16 ratepayers could be impacted by Northwestern being a
17 majority owner. Staff believes that the public interest
18 includes all Washington ratepayers and not just PSE
19 ratepayers.

20 In particular, votes at Colstrip on cost
21 would have to be approved by the Commission. And
22 Pacific Power talked about capital addition, so a
23 capital addition approved under this new voting regime
24 could impact Pacific Power who's seeking recovery of
25 those costs and also Pacific Power's ratepayers. This

1 brings interesting perspective given CETA where one
2 owner may want to invest in Colstrip, whereas the others
3 do not.

4 In general, Staff supports intervention of
5 all the Colstrip owners and believes it's in the public
6 interest and each owner has a substantial interest.

7 Thank you.

8 JUDGE O'CONNELL: Okay. Okay. Thank you.

9 Ms. Gafken for Public Counsel?

10 MS. GAFKEN: Yes, thank you. I'm not going
11 to repeat everything that's been said already except to
12 note that Public Counsel also does not have any
13 opposition to any of the petitions for intervention, but
14 with respect to the specific ones that we're discussing
15 right now, I'll start with Renewable Northwest.

16 I -- I think the question of whether they
17 have a substantial interest may be a little squishier,
18 but they don't necessarily need a substantial interest
19 in the proceeding in order to be allowed as an
20 intervenor. If their intervention is in the public
21 interest, then this is kind of a two-prong test
22 intervention whether a party has a substantial interest
23 or whether their petition -- participation would be in
24 the public interest.

25 And while I'm not certain that they have a

1 substantial interest directly, I do think that their
2 participation could be -- or is in the public interest.
3 They do have expertise that other parties don't
4 necessarily have, and the Commission would benefit
5 from -- from hearing from their testimony.

6 With respect to the co-owners and
7 particularly PGE, there's been a lot of discussion about
8 whether this Commission has jurisdiction over PGE and
9 their operations, and I -- I'm not sure that that's the
10 correct focus. Public Counsel does believe that PGE and
11 the other co-owners have a substantial interest in this
12 case because the sale that Puget is proposing has a
13 direct effect on them, and that is one basis for having
14 a substantial interest.

15 As far as the impact on the co-owners and
16 the ownership of Colstrip and -- and how that might look
17 after the sale, they bring a very specific and unique
18 perspective to that discussion that the other parties
19 won't have. I, for example, represent residential and
20 small business customers, but I don't have a lot of
21 insight into how the ownership structure will -- how the
22 change in the ownership structure will impact operations
23 and management of Colstrip, but these co-owners do.

24 And, you know, I -- I can theorize about
25 what the voting rights proposal will do and -- and those

1 sorts of things that they -- they will have a much
2 closer and more robust understanding of the impact of
3 those things, and I think it is important for the
4 Commission to hear those perspectives because those
5 things feed into whether this transaction in is the
6 public interest. And, you know, while all of the
7 traditional parties will bring their cases and will --
8 will work the case to the best of our ability, that's a
9 perspective that none of us can really bring.

10 I want to take a quick look at my notes to
11 make sure that I'm getting everything in that I wanted
12 to say.

13 Oh, I guess one other point. In terms of
14 other forums where the co-owners could bring up issues,
15 this is really the forum in which parties can address
16 whether the sale should go forward or not. So that's --
17 that's another reason why I think that the co-owners
18 should be a part of this proceeding.

19 The sale doesn't operate in a vacuum. You
20 know, we're not looking at the sale in theory without
21 considering the other impacts or -- or what -- what
22 impacts the sale might have, and part of that impact is
23 how Colstrip will be operated in the future, what
24 potential costs might there be to ratepayers as a result
25 of this transaction.

1 All of those things are relevant in this
2 proceeding, and so for the -- for that -- for these
3 reasons, Public Counsel would not object to any of the
4 intervenors being a party.

5 JUDGE O'CONNELL: Okay. Thank you,
6 Ms. Gafken.

7 At this point, I'm going to -- after hearing
8 the reasons for and against intervention at this
9 hearing, I'm going to take the petitions to intervene of
10 certain petitioners under advisement and issue a
11 decision in the prehearing conference order. I'm going
12 to take the petitions to intervene of Renewable
13 Northwest, Avista, PacifiCorp, and Portland General
14 Electric under advisement, and I will issue a decision
15 in the prehearing conference order.

16 As to the other intervenors, there are no
17 objections to their intervention, and so the remaining
18 intervenors, their petitions will be granted. That's
19 AWEC, Northwest Energy Coalition, Sierra Club, and
20 Natural Resources Defense Council.

21 I want to move on to a couple of other
22 topics. I want to come back to Mr. Kumar's request that
23 the requirement of paper filing be postponed at least
24 for the foreseeable amount of time. Mr. Kumar suggested
25 one month. I want to hear from some of the other

1 interested parties their thoughts on what is an
2 appropriate amount of time and if it is appropriate that
3 the requirement for filing paper copies be postponed or
4 suspended for the time being.

5 Let me hear from Staff.

6 MR. DALLAS: Staff believes that Pacific
7 Power's request is reasonable and would have no
8 objection to that.

9 JUDGE O'CONNELL: Okay. Public Counsel,
10 Ms. Gafken, do you have an opinion?

11 MS. GAFKEN: I also agree that Mr. Kumar's
12 request is reasonable. In terms of time frame, I think
13 that's a fluid question and the Coronavirus issue is
14 evolving. And so I guess I would -- if the Commission
15 is inclined to grant the request, I -- I would urge the
16 Commission to be open to flexibility with it. I think
17 in the prehearing conference order, you probably need to
18 put in a time frame, but if -- if situations change such
19 that a time frame longer than 30 days would be useful,
20 then -- then I -- I hope that there would be some
21 flexibility for that.

22 I'm not sure that any of us really can
23 telegraph or predict what's going to happen in the next
24 couple of months, but I do think that the underlying
25 request of suspending paper copies would be extremely

1 useful. I think most of our Staff are teleworking at
2 this point and producing paper copies does pose a
3 logistics issue. So we do support the request.

4 JUDGE O'CONNELL: Thank you.

5 PSE?

6 MR. KUZMA: PSE understands and appreciates
7 the -- the need for the -- the request and would agree
8 with PacifiCorp, Staff, and Public Counsel that that
9 would be advisable. And as far as the time period, we'd
10 leave that to the Commission's discretion, you know,
11 with the understanding that for the reasons raised by
12 Public Counsel, it's a little uncertain at this time.

13 JUDGE O'CONNELL: Thank you.

14 Okay. I -- at this point, I'm inclined to
15 grant that request and set a time period in the
16 prehearing conference starting at 60 days from the time
17 that the prehearing conference order is issued. Is
18 there anyone else in the room or on the bridge line that
19 would be opposed to that modification?

20 Okay. Hearing none, I'm going to include
21 that in the prehearing conference order, and I -- I
22 agree with Public Counsel, that given the circumstances,
23 we need to be -- we need to show some flexibility in the
24 timeline. So I'm going to set a date in the prehearing
25 conference order, but that date will be revisited as

1 necessary.

2 Okay. I want to return to the procedural
3 schedule and the dates for hearing and for filing of the
4 testimony, the filing of the rebuttal, and
5 cross-answering testimony. There is some flexibility
6 for the hearing date. In addition to October 14th,
7 September 29th or September 30 would work for the
8 Commission. We do have that availability. That would
9 require the rebuttal and cross-answering be due sometime
10 around August 26th.

11 And hearing from PSE and PSE's concerns, I
12 think that if the parties could turn around briefs in
13 three weeks after the hearing, so by about October 20th
14 or so, the Commission could likely get out an order
15 by -- you know, before the beginning of December. I
16 understand that puts us pretty close to the timeline
17 that PSE has indicated. They're -- you know, the -- the
18 considerations we have to make for the Commission's
19 resources and availability may require the timeline to
20 get pretty tight.

21 So at -- at this point, I'd like to ask if
22 the parties have had discussions about procedural
23 schedule, and in addition, I'm inclined to go off the
24 record, allow the parties to confer.

25 Mr. Dallas?

1 MR. DALLAS: The parties have discussed the
2 procedural schedule, but in light of these new dates, I
3 think we would need some time to confer to propose a
4 schedule to the Commission.

5 JUDGE O'CONNELL: Okay. So currently, it is
6 ten minutes to 11:00 in the morning. I'm going to step
7 off the bench and give the parties the room and the
8 bridge line to discuss. I don't want this to -- the
9 recess to drag out very long. I'd like to set a time
10 when I will come back and we'll proceed one way or
11 another hearing what complications there are. So is 20
12 minutes, do you think that would be a sufficient amount
13 of time to have discussion amongst the parties,
14 Mr. Dallas and Mr. Steele?

15 MR. DALLAS: That sounds reasonable.

16 MR. STEELE: Yes, Your Honor.

17 JUDGE O'CONNELL: Okay. So I will return --
18 we'll be off the record and I will return at ten after
19 11:00. If the discussions are over earlier, Staff, if
20 you could just call me or come get me.

21 MR. COLEMAN: Your Honor? I'm sorry. This
22 is Brent Coleman for AWEC, and I apologize, I was trying
23 to get my calendar back up when you -- when you
24 identified those two new possible dates at the end of...

25 JUDGE O'CONNELL: September.

1 MR. COLEMAN: September. Can you tell me --
2 or can you repeat the -- the then potential rebuttal
3 testimony date? Are you still looking at a five-week
4 window?

5 JUDGE O'CONNELL: Yes.

6 MR. COLEMAN: Okay.

7 JUDGE O'CONNELL: It's about -- so the
8 rebuttal date I looked at was August 26th if there's a
9 hearing on the September 29th or September 30th. So
10 that's just over four weeks. That is about as tight as
11 we can go as far as the time between rebuttal testimony
12 and hearing. Okay.

13 MR. COLEMAN: Thank you. That just helps me
14 be more informed as I -- as you -- as we start this
15 conversation without you. Thank you. I apologize for
16 missing it.

17 JUDGE O'CONNELL: That's fine. Let's be off
18 the record.

19 (A break was taken from
20 10:52 a.m. to 11:14 a.m.)

21 JUDGE O'CONNELL: Let's be back on the
22 record. Okay. We just came back from recess allowing
23 the parties some time to discuss the procedural schedule
24 with the parameters the Commission explained.

25 Mr. Dallas, have the parties been able to

1 discuss and possibly reach an agreement on a procedural
2 schedule?

3 MR. DALLAS: It is my understanding that we
4 do.

5 JUDGE O'CONNELL: Okay. Why don't you -- I
6 don't have a copy of it, but why don't you go ahead and
7 briefly give me the dates and significant -- well, the
8 details of what each date has.

9 MR. DALLAS: Sure. And I'll make sure to
10 read this slowly for the record. So just starting at
11 the very top, the applicant's initial filing was
12 February 19th, 2020, and we have scheduled a first
13 settlement conference for July 1st, 2020. And then we
14 have Staff, Public Counsel, and intervenors' testimony
15 and exhibits due July 17th, 2020. And then we have a
16 second settlement conference scheduled for
17 August 13th, 2020. Then we have the applicant's
18 rebuttal testimony and exhibits, Staff, Public Counsel,
19 and intervenors' cross-answering testimony and exhibits
20 on August 26th, 2020.

21 Next we have the last day for discovery
22 being September 11th, 2020. Next we have
23 cross-examination, exhibits, witness list, and time
24 estimates due on September 23rd, 2020. Next we have the
25 evidentiary hearing on September 30th, 2020, and we have

1 the post-hearing briefs due October 21st, 2020. And the
2 statutory deadline for the Commission to issue an order
3 would be January 19th, 2021.

4 I would also like to discuss having a public
5 comment hearing as well, which we have not provided a
6 date for. And we also discussed discovery timelines,
7 and we believe that there should be ten days initial
8 response followed by seven days after response testimony
9 is filed and five days after rebuttal.

10 JUDGE O'CONNELL: Okay. Thank you.

11 So I'd like to at this point ask if there
12 are any parties in the room or on the bridge line that
13 would like to explain or provide any objection to the
14 dates and the DR response times that Staff has just
15 indicated?

16 MR. COLEMAN: This is Brent Coleman for
17 AWEC. And I apologize, this is partly due to my sort of
18 newness to the -- to the jurisdiction, but can you --
19 can it be clarified with respect to the DR turnaround
20 time? Days -- or the calendar days or business days?
21 Thank you.

22 MS GAFKEN: Business days. This is Lisa
23 Gafken. The idea was -- I'd proposed the shortened time
24 was being just sort of structure and -- and
25 adjudications and the -- the DR turnaround time would be

1 based on business days.

2 MR. COLEMAN: Thanks for the clarification.

3 MR. DALLAS: And that's Staff's
4 understanding as well.

5 JUDGE O'CONNELL: Okay. I think these dates
6 are all reasonable, and I know from our discussion
7 earlier that the Commission will be available for a
8 hearing on that date. So if there are no objections,
9 this procedural schedule will be adopted and included in
10 the prehearing conference order.

11 MS. GAFKEN: Judge, this is Lisa Gafken.
12 May I make one additional comment?

13 JUDGE O'CONNELL: Yes, go ahead.

14 MS. GAFKEN: Just with -- with respect to
15 the public comment hearing, I think it was discussed in
16 a singular, and Public Counsel would recommend that
17 there be more than one. I'm not making a specific
18 recommendation as to how many, but more than one because
19 there is a substantial interest generally in Colstrip,
20 and Puget has a pretty wide ranging service territory.
21 So I do believe that more than one public comment
22 hearing would be appropriate, but I would leave that --
23 the total number up to, of course, the Commission's
24 discretion.

25 JUDGE O'CONNELL: Okay. So what I'm hearing

1 is that there -- from Public Counsel there's a
2 preference that we at least attempt to have more than
3 one, but to leave that up to the Commission's discretion
4 as far as availability; is that correct?

5 MS. GAFKEN: Right.

6 JUDGE O'CONNELL: Okay.

7 MS. GAFKEN: Yes, and I -- I -- I suppose if
8 the Commission wanted to do more than two, I would not
9 object to that, but I'm not asking for that either.

10 JUDGE O'CONNELL: Okay. Understood.

11 Okay. Well, I think we have -- we've
12 covered everything that I have intended to cover at this
13 prehearing conference. Is there anything else from the
14 parties that we should discuss?

15 MR. KUZMA: Your Honor, this is Jason Kuzma
16 on behalf of Puget Sound Energy. I just do want to
17 mention that for purposes of data requests and service
18 that Puget will be sending out a distribution list
19 that's PSEDRS@perkinscoie.com that we'd request
20 everybody send, you know, service of pleadings and also
21 data requests and data request responses.

22 JUDGE O'CONNELL: And is that in your --

23 MR. KUZMA: If it's not, I will send you an
24 email with that listed.

25 JUDGE O'CONNELL: Okay. Thank you. I'd

1 like to include that in the prehearing conference order.

2 At the end of the prehearing conference
3 order as an appendix, I will include all of the
4 attorneys who have made a notice of appearance for any
5 parties that are granted intervention as well as contact
6 information for anyone designated by the parties granted
7 intervention who -- you know, the support staff who
8 should also be receiving any communications between
9 parties.

10 Okay. Is there anything else that we should
11 discuss before we adjourn for the day? Okay.

12 MS. GAFKEN: Your Honor, this is Lisa
13 Gafken. I -- I just wanted to raise one -- one issue
14 that was alluded to earlier towards the beginning of
15 the -- of the prehearing conference in one of your
16 questions. And the question that you had raised was
17 with respect to Northwest -- Northwestern Energy's
18 participation in the docket.

19 They're not a party to this case, and I
20 could foresee, you know, discovery issues, right, if --
21 if we're asking -- "we," the collective group of
22 parties, are asking questions of Puget Sound Energy that
23 really require answers from Northwestern. I -- I could
24 see there being issues there, and I'm -- I'm not trying
25 to place any judgment on that, but I just wanted to

1 raise that -- the flag just in case something does come
2 up during the proceeding as kind of a preservation issue
3 if you will.

4 JUDGE O'CONNELL: Okay. I understand.

5 PSE, Mr. Kuzma, Mr. Steele, do you have
6 thoughts on how we might resolve if anything comes up?

7 MR. KUZMA: Your Honor, I mean, Puget's
8 going to respond to the data requests to the best of its
9 ability. Northwestern is not a party to the proceeding.
10 The Commission doesn't have jurisdiction over them. I
11 can't speak on behalf of Northwestern and what
12 activities they would take. Quite frankly, you know, I
13 don't think we know everything Northwestern knows or --
14 or what the plans are either. So we -- we can't -- we
15 can't make any commitments on behalf of Northwestern
16 Energy. We can try to see if they can provide some
17 information, but that's the best we can do.

18 JUDGE O'CONNELL: Well, that -- I'll just
19 say that I assume that by -- by the fact that they've
20 entered into this transaction with PSE, that they have
21 an interest in wanting to see it move forward. So I
22 hope that they at least pay close attention to the
23 proceeding, and if something arises where they're
24 needed, I hope that they're willing to help resolve
25 questions.

1 MR. KUZMA: Understood and we would agree.

2 JUDGE O'CONNELL: Okay. And -- okay.

3 Ms. Gafken, is there anything else that Public Counsel
4 thinks that we should address before we adjourn?

5 MS. GAFKEN: I have nothing else. Thank
6 you.

7 JUDGE O'CONNELL: Okay. Is there anyone
8 else who has something that we should address before we
9 adjourn?

10 Okay. Hearing nothing, thank you all for
11 your participation today. Thank you to those who are in
12 the room, but also thank you to those who are on the
13 bridge line. Before we adjourn, if you could give me
14 one moment.

15 So as I mentioned before, there is another
16 prehearing conference after this one. That prehearing
17 conference, a number of the parties here are also going
18 to be in attendance at that prehearing conference. That
19 next prehearing conference will begin at approximately
20 11:35 a.m. So with that, we will be off the record.
21 Thank you.

22 (Adjourned at 11:25 a.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON

COUNTY OF THURSTON

I, Tayler Garlinghouse, a Certified Shorthand Reporter in and for the State of Washington, do hereby certify that the foregoing transcript is true and accurate to the best of my knowledge, skill and ability.

Tayler Garlinghouse

Tayler Garlinghouse, CCR 3358



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